

DRAFT
OGC:MCM:jem
15 June 1959

MEMORANDUM FOR: Mr. Houston

SUBJECT: History of Section 102(c) of the National Security Act
of 1947

1. In going over the ~~legislative~~ background of the formation of the Central Intelligence Agency, I have come across some history of section 102(c). The first rough draft of the proposed bill for the merger of the armed forces, apparently drafted at the White House in January of 1947, contained no provision for the discharging of personnel by the Director of Central Intelligence in the Central Intelligence section of the bill. However, in section 404 of the draft bill, the Director of Central Intelligence, along with the Secretary of National Defense, the Secretary of the Air Force, the Executive Secretary of the Council of National Defense and the Chairman of the National Security Resources Board, was given authority to "appoint and fix the compensation of such personnel as may be necessary to perform their respective duties. Such appointment shall be made and such compensation shall be fixed in accordance with the provisions of the Civil Service laws and the Classification Act of 1923, as amended."
2. When the bill was forwarded to CIG for comment, it was noted by officials in CIG that section 404 of the proposed draft would tend to limit the powers of the Director to appoint personnel to exempted positions on unvouchered funds and it was further noted that the Director would have limited power to discharge employees for security reasons. Consequently, on 23 January 1947, a memorandum was sent to Mr. Charles S. Murphy, Administrative Assistant to the President, transmitting a proposed draft of the ~~same~~ bill which included revisions which had been discussed with Mr. Murphy, and which

~~were destroyed~~ by CIG. Copies of the proposed draft also were forwarded to

General Norstad and Admiral Sherman who, along with Mr. Murphy, composed

the National Defense Act drafting team. CIG's draft included ~~a great~~

many administrative details which were subsequently eliminated when re-

drafting the bill. However, section 102(d)(8) contained the following

language: "Notwithstanding the provisions of section 6 of the Act of

August 24, 1912 (37 Stat. 555), or the provisions of any other law, the

Director of Central Intelligence may, in his absolute discretion, terminate

the employment of any officer or employee of the Agency whenever he shall

deem such termination necessary or advisable in the interests of the United

States, but such termination shall not affect the right of such officer or

employee to seek or accept employment in any other department or agency of

the Government if declared eligible for such employment by the United States

Civil Service Commission."

3. At the meeting with Mr. Murphy, the Director, General Vandenberg, and

discussed the ~~discharging of~~ ^{problem of} employees ^{and other} in connection with the difficulties of

~~operation of~~ clandestine methods in the absence of detailed legislation

empowering the Director to operate on unvouchered funds, select certain types

of personnel and discharge employees for any question of possible disloyalty.

It was agreed at that meeting that provisions ~~along the above lines~~ would be

included in the proposed draft of the National Security Act bill which CIG

was to submit to the White House.

4. On 10 February, 1947, a confidential provision of the merger bill

was discussed ~~with~~ ^{by a CIG representative} Mr. Murphy and an aide to Admiral Leahy, probably at

the White House, which would have allowed the Secretary of the Armed Forces,

the Secretary of the Air Force, the Executive Secretary of the National Security

Council, the Chairman of the National Security Resources Board and the

Director of the Central Intelligence Agency to "appoint and fix the compensation

of such personnel as may be necessary to perform their respective duties,
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and the functions of the agencies under their control". The CIG position
on this provision apparently was that CIG didn't care if this provision
was inserted or not.

5. A text of a proposed bill providing for a national defense
establishment was sent to the Congress on 26 February 1947. ~~This bill~~ did
not include the section on termination of CIA employees as proposed by
CIG on 23 January, ..